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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,059	01/23/2004	Douglas Durham	15436.164.1	7603
22913	7590	12/18/2009		
Workman Nydegger 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111				
EXAMINER				
HAMZA, FARUK				
ART UNIT		PAPER NUMBER		
2455				
MAIL DATE		DELIVERY MODE		
12/18/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/764,059

**Applicant(s)**

DURHAM ET AL.

**Examiner**

FARUK HAMZA

**Art Unit**

2455

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 and 33-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 33-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is responsive to the communication filed on November 24, 2009. Claims 40-41 have been newly added. Claims 1-14 and 33-41 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 24, 2009 has been entered.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-14 and 33-41 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 1 and 35, these are method claims and thus must meet the particular machine or transformation test as set forth in *Bilski*. In this case, there is no particular machine or particular transformation. Rather, the claim seems to consist entirely of software which is not patentable per se. Claims 2-14 and 33-41 do not recite any particular machine or transformation that would

render the claims patentable subject matter. Therefore, they are rejected based on their dependency.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 14 and 33-41 rejected under 35 U.S.C. 102(e) as being anticipated by Oyadamari et al. (U.S. Pub. No. 2005/0060402) hereinafter referred as Oyadamari.

As to claim 1, Oyadamari teaches a method that is suitable for use in connection with a multi- protocol communications analyzer, and the method comprising (abstract):

identifying ports of the multi-protocol communications analyzer (P[0052-0054, 0072-0074]);

determining whether one or more of the identified ports are available (P[0072-0074]);

using at least one of any available ports to at least partially define a domain (P[0072-0074]) ; and

configuring at least one port of any domain that was defined in connection with an available port (P[0072-0074]);

wherein the domain is defined such that ports included in the domain appear to share, from a first user perspective, a trigger line and/or a common clock (P[0067-0069]).

As to claim 3, Oyadomari teaches the method as recited in claim 1, wherein the domain, if any domain was defined, comprises one of: a modified version of a previously existing domain; a new domain (P[0072-0074]).

As to claim 4, Oyadomari teaches the method as recited in claim 1, further comprising modifying any domain that was at least partially defined in connection with an available port (P[0072-0074]).

As to claim 5, Oyadomari teaches the method as recited in claim 4, wherein modifying any domain that was at least partially defined in connection with an available port comprises changing the number of ports associated with the domain (P[0072-0074]).

As to claim 6, Oyadomari teaches the method as recited in claim 1, further comprising displaying information concerning the ports of the multi-protocol communications analyzer (fig. 14).

As to claim 7, Oyadomari teaches the method as recited in claim 1, further comprising displaying information concerning availability of the ports of the multi-protocol communications analyzer (P[0052-0054]).

As to claim 8, Oyadomari teaches the method as recited in claim 1, further comprising displaying information concerning a domain (P[0072-0074]).

As to 9, Oyadomari teaches the method as recited in claim 1, further comprising displaying information concerning port parameters (P[0072-0074]).

As to claim 10, Oyadomari teaches the method as recited in claim 1, further comprising receiving one of: a domain creation request; a domain modification request (P[0072-0074]).

As to claim 11, Oyadomari teaches the method as recited in claim 10, further comprising receiving and displaying the name of the domain that is the subject of the received request (P[0072-0074]).

As to claim 12, Oyadomari teaches the method as recited in claim 1, further comprising receiving port selection input if a port has been determined to be available (P[0052-0054]).

As to claim 13, Oyadomari teaches the method as recited in claim 1, further comprising receiving port configuration input if a domain has been at least partially defined in connection with an available port (P[0072-0074]).

As to claim 14, Oyadomari teaches the method as recited in claim 1, further comprising displaying port configuration information if a domain has been at least partially defined in connection with an available port (P[0072-0074]).

As to claim 33, Oyadomari teaches the method as recited in claim 1, wherein determining whether one or more of the identified ports are available

includes determining whether the one or more identified ports are reserved for use by a second user (P[0072-0074]).

As to claim 34, Oyadomari teaches the method as recited in claim 1, wherein determining whether one or more of the identified ports are available includes determining whether the one or more identified ports are in an error state (P[0072-0074]).

As to claim 40, Oyadomari teaches the method as recited in claim 1, wherein the at least one of any available ports used to at least partially define the domain includes a port pair that captures data transmitted on a bi-directional communications link in a communications system (P[0052-0054, 0072-0074]).

As to claim 41, Oyadomari teaches the method as recited in claim 35, wherein the at least one of the first and second link analyzers is interchangeable with a link analyzer configured for use with a data stream corresponding to a third communication protocol (abstract, P[0016-0018]).

Claims 35-39 do not teach or define any new limitations other than above claims. Therefore, claims 35-39 rejected for similar reasons.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oyadomari et al. (U.S. Pub. No. 2005/0060402) hereinafter referred as Oyadomari, and further in view of Seawright et al. (U.S. Patent Number 5,920,711) hereinafter referred as Seawright.

As to claim 2, Oyadomari teaches identifying ports and define a domain.

Oyadomari does not explicitly teach the claim limitation of at least portion of the method performed by way of a graphical user interface.

However, Seawright discloses system for GUI to specify protocols and to edit and browse protocols (abstract). Seawright teaches the claim limitation of at least portion of the method performed by way of a graphical user interface (Column 2, lines 53-63).

It would have been obvious to the ordinary skill in the art at the time of the invention to modify Oyadomari by incorporating Seawright's teaching of graphical user interface to analyze protocol because that would allow human user easily browse and edit protocols by cut and paste without type redundant information.

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in its



entirety as potentially teaching of all or part of the claimed invention, as well as the context.

***Response to Arguments***

6. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faruk Hamza whose telephone number is 571-272-7969. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached at 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll -free).

Faruk Hamza

Patent Examiner

Group Art Unite 2455

/Faruk Hamza/  
Examiner, Art Unit 2455